

REMARKS/ARGUMENTS

Claims 1 through 19 and 23 through 43 are currently pending in the application. For at least the reasons set forth below, Applicants respectfully submit that the claims are patentably distinguishable over the cited art.

Claims 1 through 14, 17 through 19, 23 through 41 and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 00/30956 (hereinafter “‘956 application”).

Claim 1 recites a cleaning wipe having a composition, the composition comprising at least one surfactant system; at least one preservative system; at least one soil resist selected from the group consisting of fluoroaliphatic oligomer or polymer, fluorinated acrylate copolymer, anionic fluorosurfactant, and any combinations thereof; and a carrier. The soil resist is present in an amount about 0.01 wt.% to about 4 wt.% of the total weight of the composition. The cleaning composition is adjusted to a pH about 7.5 to about 10.5, and the wipe has a loading level ratio about 1:1 to about 10:1 based on a total weight of the cleaning composition to a total weight of the wipe. The wipe is for cleaning carpet and fabric.

Claim 32 recites a carpet and fabric cleaning wipe having a cleaning composition comprising about 0.001 wt.% to about 2 wt.% preservative system; about 0.1 wt.% to about 20 wt.% surfactant system; about 1 wt.% to about 20 wt.% alcohol; about 0.01 wt.% to about 4 wt.% soil resist selected from the group consisting of fluoroaliphatic oligomer or polymer, fluorinated acrylate copolymer, anionic fluorosurfactant, and any combinations thereof; and q.s. aqueous carrier. The carpet and fabric cleaning wipe has a loading level ratio about 1:1 to about 10:1, based on a total weight of the cleaning composition to a total weight of said carpet and fabric cleaning wipe.

The '956 application is directed to a dispensing system for wet wipes for use in wiping surfaces in the home and in industry, in addition to their use on the human body, such as for baby wipes, make-up removal and other skin care applications. The Action correctly notes that the '956 application fails to disclose the claimed pH.

Applicants respectfully submit that the '956 application fails to disclose or suggest a carpet and fabric cleaning wipe having a cleaning composition, as required by claims 1 and 32. As set forth above, both claims require a composition with a soil resist selected from the recited Markush group in an amount about 0.01 wt.% to about 4 wt.% of the total weight of the composition.

Applicants respectfully submit that the '956 application fails to disclose or suggest a carpet and fabric cleaning wipe, let alone one having a cleaning composition with a soil resist selected from a claimed components in an amount about 0.01 wt.% to about 4 wt.%, based on the total weight of the composition, as required by claims 1 and 32.

Applicants respectfully maintain that the '956 application does not disclose or suggest any wipe with a composition having a soil resist, as required by claims 1 and 32. While the '956 application does disclose an optional substrate treatment with fluorinated materials like fluoropolymers (page 13, lines 8-10), the '956 application clearly fails to disclose or suggest a wipe with a soil resist selected from the claimed components in the claimed amount, as recited in claims 1 and 32.

The fluorinated materials in the '956 application are employed to treat the substrate to adapt the separation force between wipes (page 12, line 27). As discussed above, a soil resist is a material that treats the surface to be cleaned to retard resoiling of that surface. The fluoropolymers of the '956 application are treatments for the substrate itself and there is no disclosure or suggestion in the '956 application that the fluoropolymers are used or could be used to treat the surface being cleaned, i.e. a carpet or fabric, as in the present invention. To the contrary, the '956 application is

silent as to the use of a soil resist and fails to even contemplate the problem of resoiling on a carpet or fabric.

Further, even if one were to incorrectly assume that the fluoropolymer of the '956 application was a soil resist, the '956 application still falls short of disclosing or suggesting the claimed soil resist and clearly fails to disclose or suggest use of the soil resist in the amount required in the claimed invention. Moreover, as demonstrated by the data set forth in the present specification, the claimed compositions with the claimed soil resist in the claimed amount are extremely effective carpet and fabric cleaning compositions compared to prior art compositions.

Despite the above-stated distinctions of the claimed invention over the '956 application, the Action (see page 7) maintains that the '956 application teaches the claimed invention, relying specifically on page 12, line 27 through page 13, line 25 of the '956 application. The Action recites "...WO '956 teaches that the chemicals like fluoropolymers may be added to the substrate as a component of the lotion, and like the silicone, the fluoropolymers may be added to the substrate in the levels of at least 0.25 g per square meter of surface area." Applicants respectfully disagree with this statement

Applicants respectfully submit that the Action again mischaracterizes the disclosure relied upon in the '956 application. As noted above, the '956 application describes the use of silicone materials as suitable means of adapting the separation force between wipes (page 12, line 27 through page 13, line 3). The '956 application further describes, with respect to a specific silicone blend, use of said blend on the substrate with coating application levels of at least 0.25 g, and preferably 0.5 to 8.0 grams silicone per square meter of surface area (page 13, lines 3-5). The '956 application then goes on to generally further describe other suitable treatment materials, which include fluorinated materials such as fluoropolymers (PTFE given as sole example), among a laundry list of other materials. No further description or

specificity on the use of specific types of fluoropolymers in any amounts is provided, let alone use as a soil resist.

Despite the clear lack of specific disclosure relating to fluoropolymers in the '956 application, the Action attempts to cure this deficiency by reading into and/or inferring information that simply is not disclosed or suggested in the '956 application, namely the claimed soil resists in the claimed amount, based on the total weight of the composition. Applicants reiterate that the disclosure of the use of silicone materials, or more specifically a precise blend of silicones in an amount based on the surface area of a substrate, as suitable means of adapting the separation force between wipes falls far short of reading on the claimed invention, which requires a wipe having a composition with, inter alia, a soil resist selected from a Markush group of materials, in a claimed amount based on the total weight of the composition.

Additionally, Applicants respectfully disagree with the Action's assertion that it would have been obvious to one skilled in the art at the time of the invention was made to reasonably expect the compositions of WO '956 to have a pH within those recited considering the similarities of ingredients used in the composition and the utility in wiping surfaces in the home and industry (see page 4 of Action). As noted above, the composition of the claimed invention is distinct over that described in the '956 application. Moreover, the pH of the claimed composition is not arbitrary, as noted in the present specification at page 16, lines 1-5, which provides that controlling and maintaining the pH of the composition in the wipe contributes to the exceptional stability and microbial growth prevention of the present invention. The stability and microbial growth prevention is demonstrated in the examples set forth in the specification. Nowhere in the '956 application is a correlation between pH and stability and microbial growth prevention disclosed, suggested or even contemplated. Therefore, the claimed pH range is not obvious in view of the '956 application.

Therefore, because of the deficiencies noted in the disclosure of the '956 application, the Action has not met its burden in establishing a *prima facie* case of

obviousness, which requires, in relevant part, that the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The only disclosure of the claimed wipe having a composition with a soil resist selected from the claimed group in the claimed amount based on the total weight of the composition and a pH in the claimed range is found in Applicants disclosure and not in the '956 application, contrary to the contentions set forth in the Action.

In addition to the that set forth above with respect to claims 1 and 32, Applicants further submit that the '956 application fails to disclose or suggest the claimed invention recited in dependent method claims 33 through 38 and 40.

Claim 33 recites a method of producing the cleaning wipe of claim 1, which comprises placing the wipe in a container; dispensing the composition into the container; and sealing the container. Nowhere in the '956 application is such a method disclosed or suggested. To the contrary, the '956 application discloses applying the composition to the wipes prior to putting the wipes in the container (page 17, line 21 through page 18, line 19).

Claim 34 recites the method of claim 33, wherein the sealed container is inverted. Nowhere in the '956 application is the step of inverting the sealed container remotely disclosed or suggested.

Claim 36 recites a method of producing the cleaning wipe of claim 1, which comprises dispensing the composition into a container; placing the wipe into the container; and sealing the container. Again, as noted above with respect to claim 33, the '956 application fails to disclose or suggest the claimed method recited in claim 36. To the contrary, the '956 application discloses applying the composition to the wipes prior to putting the wipes in the container (page 17, line 21 through page 18, line 19).

Claim 37 recites the method of claim 36, wherein the sealed container is inverted. Nowhere in the '956 application is the step of inverting the sealed container remotely disclosed or suggested.

Claim 40 recites a method of producing the cleaning wipe of claim 1, which comprises spraying the composition onto the wipe; placing the wipe into a container; sealing the container; and inverting the container. Again, as set forth above with respect to claims 34 and 37, the '956 application fails to disclose or suggest a method that includes the step of inverting a container.

Accordingly, Applicants respectfully submit that claims 1 and 32, as well as all claims dependent therefrom, are patentably distinguishable over the '956 application for at least the reasons discussed above. As such, reconsideration and withdrawal of the §103(a) rejection of these claims is respectfully requested.

Claims 1 through 19, 23, 30 through 32 and 41 through 43 stand rejected under 35 U.S.C §103(a) as being unpatentable over U.S. Patent No. 5,712,240 to Tyerech et al. (Tyerech).

Claims 1 and 32 are summarized above. Tyerech describes aqueous carpet cleaning compositions that provide an effective cleaning effect and further impart water and oil repellent characteristics to carpet surfaces and carpet fibers treated with the compositions. The compositions require fluoroaliphatic radical-containing poly(oxyalkylene) compound; anionic surfactant selected from alkyl sulfates, alkyl benzene sulfates, and alkane sulfonates as well salt forms thereof; organic solvent; and water. The compositions can optionally include one or more additives select from a laundry list of components, which include, inter alia, preservatives, pH adjusting agents, anti-soiling agents and resoiling inhibitors, further solvents and surfactants, and one or more further fluorosurfactant compositions. The Action correctly notes that Tyerech

fails to disclose the aqueous cleaning composition loaded in a wipe in the recited loading ratio.

Applicants respectfully submit that the Action again fails to establish a *prima facie* case of obviousness, which requires that three basic criteria be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

By its own admission, the Action correctly notes that Tyerech fails to disclose a wipe impregnated with a cleaning composition, as recited in the claimed invention. However, absent such disclosure, the Action contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to have loaded a cloth or non-woven cloth with the aqueous composition in its optimum proportion because Tyerech teaches that a carpet can be treated with their composition by adding the composition to a cloth and rubbing the carpet. Applicants respectfully disagree with this contention since there is absolutely no motivation in Tyerech to impregnate a wipe with a cleaning composition in a particular loading level, as recited in the claimed invention.

Moreover, there are many considerations in determining the loading level to be applied to a wipe, such as, for example, the nature of the composition, the nature of the wipe, use of the wipe, wipe packaging, storage of the wipe, and wipe stability. These parameters are clearly different and not even contemplated by Tyerech because Tyerech only discloses a particular cleaning composition and not a wipe. Since a wipe according to the claimed invention is clearly not disclosed or suggested by Tyerech, it is clear that one skilled in the art would not have a reasonable expectation of success in

simply combining the composition of Tyerech in a cloth, based on the lack of disclosure in Tyerech of a wipe impregnated with a cleaning composition, as recited in the claimed invention.

Finally, it is clear that the only teaching or suggestion of the claimed wipe is found in Applicants disclosure and not Tyerech, which is supported by the Action's admission that Tyerech lack the disclosure of such a wipe. Therefore, one skilled in the art, based on the disclosure in Tyerech, could not be expected to arrive at Applicants claimed invention. It is only through impermissible hindsight reconstruction that the Action can arrive at Applicants claimed invention. "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics, Inc. v. Aerosonic Corp., 38 USPQ 2d 1551, 1554 (Fed. Cir. 1996), citing Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985).

Accordingly, Applicants respectfully submit that Tyerech fails to disclose or suggest the claimed invention. As such, reconsideration and withdrawal of the §103(a) rejection of claims 1 through 19, 23, 30 through 32 and 41 through 43 are respectfully requested.

Claims 24 through 29 and 33 through 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Tyerech as applied to the above claims, and further in view of WO '956.

Both Tyerech and the '956 application are summarized above. Claims 24 through 29 and 33 through 40 depend directly or indirectly from claim 1. As noted above, claim 1 is patentably distinguishably over Tyerech and the '956 application. Therefore, Applicants respectfully submit that all claims dependent therefrom, including

claims 24 through 29 and 33 through 40 are also patentably distinguishable for at least the same reasons set forth above.

In addition to the that set forth above with respect to claims 1 and 32, Applicants further submit that neither Tyerech nor the '956 application, taken alone or in combination, disclose or suggest the claimed invention recited in dependent method claims 33 through 38 and 40. As detailed above, Applicants have distinguished the claimed invention recited in claims 33, 34, 36, 37 and 40 over the '956 application since the '956 application fails to disclose or suggest each of the claimed method steps. Applicants respectfully submit that the same distinctions apply equally to Tyerech. Since Tyerech fails to disclose or suggest a wipe, let alone a method for producing a wipe as recited in the claimed invention, and the '956 application fails to cure these deficiencies, it follows that the combination of Tyerech and the '956 application also fails to disclose or suggest the claimed method for producing a wipe, as recited in claims 33 through 38 and 40.

Therefore, in view of the above, Applicants respectfully submit that Tyerech and the '956 application, taken alone or in combination, fail to disclose or suggest the claimed invention. As such, reconsideration and withdrawal of the §103(a) rejection of claims 24 through 29 and 33 through 40 are respectfully requested.

Claims 15, 16 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO '956 as applied to the above claims, and further in view of Tyerech.

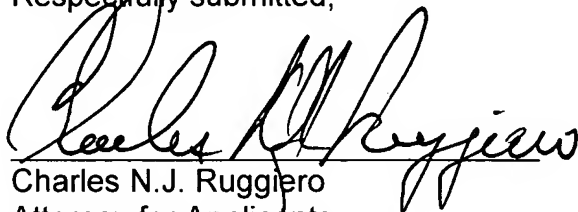
Claims 15, 16 and 42 depend directly or indirectly from claim 1. As set forth above, claim 1 is patentably distinguishable over both the '956 application and Tyerech, taken alone or in combination. Therefore, it follows that all claims dependent therefrom, including claims 15, 16 and 42 are patentably distinguishable over the cited art for at least the same reasons.

Therefore, reconsideration and withdrawal of the §103(a) rejection of claims 15, 16 and 42 are respectfully requested.

In view of the foregoing, Applicants respectfully submit that all claims presented in this application are patentably distinguishable over the cited references taken alone or in combination. Accordingly, Applicants respectfully request favorable consideration and the passage of the application to allowance.

August 31, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", is written over a horizontal line.

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